

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, October 3, 2007
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: September 21, 2007

RE: Closed Session of the Board on October 3, 2007

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. B T MANCINI CO., INC., 04-R2D5-4037 (9/10/2007)
2. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217 (9/10/2007)
3. DANIEL F. HALLAHAN dba THE HOUSE DOCTOR, 06-R3D5-2280 (9/6/2007)
4. LVI ENVIRONMENTAL SERVICES, INC., 05-R1D1-2883 (9/7/2007)
5. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417 (9/14/2007)
6. STATIONARY SCAFFOLDING, 04-R1D1-3612 THROUGH 3617 (9/14/2007)

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ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. A B & I, 05-R1D4-185 AND 186
2. ADECCO, 06-R2D1-881
3. ADECCO INDUSTRIAL, 06-R3D5-1449
4. AG SOURCE SERVICE LLC, 06-R2D5-4130 AND 4131
5. ACCURATE LAMINATED PRODUCTS, INC., 05-R6D2-2451 THROUGH 2453, 05-R6D2-2600
6. ADVANCED DESIGNS, 07-R2D1-554
7. ALLAN DEVISH LATH & PLASTER, 06-R2D3-3513 AND 3514
8. AL SHANKLE CONSTRUCTION CO., INC., 05-R3D5-4338 AND 4339
9. ALUMINUM PRECISION PRODUCTS, INC., 05-R6D2-670 THROUGH 672
10. ALUMINUM PRECISION PRODUCTS, INC., 05-R6D2-673 THROUGH 682
11. AMERICAN BUILDING SUPPLY INC., 06-R3D3-3655 AND 3656
12. AMERON PIPE, 06-R3D3-3657
13. WALTER ANDERSON, 05-R3D2-3551
14. BACCHUS CAVES, 06-R5D1-3261
15. BEN NYE CO., INC., 07-R4D1-864 THROUGH 866
16. BOLDER MANUFACTURING, 07-R3D5-2723 AND 2724
17. PATRICK BRANSFORD, 06-R1D5-1753 AND 1754
18. BRENTWOOD FINE FURNITURE, 06-R4D1-3199 THROUGH 3201
19. BOWARD BROTHERS, INC., 07-R2D1-1672 THROUGH 1674
20. BUNIAK, INC. dba GOLDEN STATE MITSUBISHI, 06-RD1-3356

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21. C & L REFRIGERATION CORP., 07-R3D5-753 AND 754
22. CALIFORNIA SUN HARVEST, 06-R2D3-452
23. CANNON FABRICATION INC., 05-R3D3-3732
24. CAREY STEEL CO., INC., 07-R6D2-448 AND 449
25. CASEWORK INSTALLATION, INC., 05-R6D2-3649 THROUGH 3653
26. CATALINA CYLINDERS, A DIVISION OF ALUMINUM PRECISION PRODUCTS, 05-R6D2-683 THROUGH 692
27. CENTRAL AIR CONDITIONING, 05-R2D5-2506 THROUGH 2508
28. CLOUGHERTY PACKING, LLC dba FARMER JOHN, 07-R4D2-3354
29. COMMAND PACKAGING, 06-R4D2-3670
30. COMMERCIAL WINDOWS SYSTEMS INC., 06-R2D1-3541
31. CONTRA COSTA COUNTY CLERK-RECORDER'S OFFICE, 07-R2D2-555
32. CONTRA COSTA ELECTRIC, 05-R4D2-4436
33. CONTRACTOR'S CARGO, 05-R4D2-3987 THROUGH 3990
34. CONTROL AIR CONDITIONING CORPORATION, 05-R3D1-1922
35. DAN CUNNINGHAM dba DAN'S CREATIVE ENTERPRISES, 07-R1D5-1513
36. CUSTOM ALLOY LIGHT METALS, 04-R4D4-1372 THROUGH 1374
37. DANNY LETNER INC. dba LETNER ROOFING CO., 05-R4D3-2142 AND 2143
38. ALVIS DARA dba A.D. PLASTICS, 05-R4D2-3446 THROUGH 3448
39. DEL MONTE FOODS CO., 05-R3D5-103
40. EAGLE BAG CORP., 05-R1D4-1271 THROUGH 1279
41. ELLIOTT DRILLING SERVICES, 06-R3D2-2230 THROUGH 2233
42. ELLISON TECHNOLOGIES, INC., 07-R3D3-3141

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43. FARMERS INTERNATIONAL, INC., 05-R2D3-1770 AND 1771
44. FOLSOM READY MIX INC., 05-R2D1-3268
45. FOOTHILL PACKING, INC., 07-R3D2-1293
46. FRANK TORRES CONSTRUCTION, 04-R3D1-2893
47. FROSTAD ATELIER, INC., 07-R2D1-1368
48. G B MARBLE dba STONE ETC., INC., 06-R4D1-81 THROUGH 84
49. G E EQUIPMENT MANAGEMENT, 04-R2D5-3241 AND 2342
50. GNR FARM LABOR CONTRACTING, INC., 04-R2D5-4277
51. GABRIEL R. FIMBRES PLASTERING, INC., 06-R4d3-2863 AND 2864
52. GALAXY DESSERTS, INC., 04-R1D5-3090
53. GHILOTTI CONSTRUCTION CO., INC., 06-R1D5-1981 AND 1982
54. GOLD COAST BAKING CO., 05-R6D2-1552
55. GRANITE CONSTRUCTION CO., 07-R5D1-1082, 07-R5D1-1085
56. GREEN VALLEY AG, 05-R2D5-3296
57. GRIMMWAY FARM INC., 05-R2D5-2226 THROUGH 2228
58. GUIMARRA VINEYARDS CORP., 05-R2D5-707 THROUGH 710
59. HANANI RESTAURANT INC., 06-R2D5-1191 AND 1192
60. HELIOPower, INC., 06-R3D2-144 AND 145
61. HENDERSON TREE SERVICE, 05-R3D2-2598 AND 2599
62. HI DESERT CONSTRUCTION, 05-R3D3-1703 AND 1704
63. HI-GRADE MATERIALS INC., 07-R5D3-2857
64. IPC CAL FLEX, INC., 06-R3D1-4257
65. J & A RESTAURANTS, INC. dba CASA ADELITA #3, 07-R3D1-1863 AND 1864

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66. JCP LOGISTICS LP dba JC PENNY WAREHOUSE, 06-R3D1-511
67. J & J SNACK FOODS, 06-R4D2-3674 AND 3675
68. JACKSON QUALITY DRY WALL, 05-R1D2-2886
69. JACOBSON PLASTICS, 07-R6D2-1886 THROUGH 1890
70. JOHN JORY CORPORATION, 05-R3D2-2233
71. JOHN WHEELER LOGGING, INC., 05-R2D3-82
72. ARIE DE JONG dba SHIRK DAIRY, 06-R2D5-4239 THROUGH 4247
73. JOVEL WOOD CREATIONS, 06-R4D2-1320 AND 1321
74. KAREN'S DESIGN, 05-R4D1-3762 THROUGH 3765
75. KENYON PLASTERING, INC., 07-R2D1-1010 AND 1011
76. KENYON PLASTERING, INC., 07-R2D1-1612
77. KINGS DRYWALL INC., 07-R4D3-413
78. KINGS WASTE & RECYCLING AUTHORITY, 05-R2D5-2224 AND 2225
79. KOHLER & CLARK SCREW PRODUCTION, 06-R2D5-1060
80. KRAMER METALS, INC., 05-R4D2-2252
81. KRAMER METALS, INC., 05-R4D2-3986
82. LAUSD VAN NUYS COMMUNITY ADULT SCHOOL, 07-R4D3-2245
83. LABOR READY, 06-R4D3-347
84. LADDIE RICHARSON CONSTRUCTION, INC., 04-R1D5-1333 THROUGH 1335
85. LAM LIGHTING SYSTEMS, 07-R3D1-570
86. LANDSCAPE PLUS, 07-R1D2-1503 THROUGH 1505
87. LEADER INDUSTRIES, 06-R6D2-3312 THROUGH 3318
88. LI METAL SYSTEMS, 06-R3D1-4955

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89. LINDSAY FOODS INTERNATIONAL, 06-R2D3-4523 AND 4524
90. LISI AEROSPACE HISHEAR, 05-R3D5-3625 THROUGH 3630
91. CITY OF LONG BEACH PUBLIC WORKS, 06-R3D5-1091 AND 1092
92. LONG BEACH UNIFIED SCHOOL DISTRICT – PLYMOUTH HEAD START,
06-R3D5-2286 AND 2287
93. LOPEZ GENERAL ENGINEERING, 07-R3D1-1541
94. LOS JARRITOS, 07-R2D1-1519
95. MALAN STREET COOLING, 06-R3D7-4631 THROUGH 4635
96. MARES FRAMING, 07-R2D1-1012
97. MATTERHORN GROUP INC dba VITAFREEZE FROZEN CONFECTIONS, 05-
R2D1-3100 THROUGH 3102
98. MID-STATE STEEL ERECTORS, INC., 06-R1D3-1505
99. MILLWOOD CABINET CO., INC., 06-R6D2-3284 THROUGH 3288
100. MILLWOOD CABINET CO., INC., 06-R6D2-3289 THROUGH 3292
101. MIRANT POTREREO LLC, 05-R1D1-2884
102. MISSION FLAVOR & FRAGRANCES, INC., 05-R6D2-693 THROUGH 699
103. MISSION FOODS, 05-R3D3-3499 THROUGH 3501
104. MITCHELL ENGINEERING OBAYASHI, 05-R1D1-2762 THROUGH 2764
105. NEXT PHASE DISTRIBUTION, INC., 07-R6D2-610 AND 611
106. NORTH STAR PROPELLER, 04-R6D2-3696 THROUGH 3701
107. NORTH STAR PROPELLER, 04-R6D2-3702 THROUGH 3707
108. P & R BRAR FARMS, 05-R2D5-2399
109. PACIFIC PRODUCTION PLUMBING, 07-R6D2-904
110. PATRICK'S CABINETS, 05-R6D2-3389 THROUGH 3394

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- 111. PAUL NAGY CONSTRUCTION, 04-R4D3-4440 AND 4441
- 112. PERFECT SMILE DENTAL PRACTICE, 07-R2D1-2684
- 113. PERFORMANCE TILE & STONE, INC., 05-R2D1-2204 THROUGH 2207
- 114. PETERSEN DEAN ROOFING, 05-R3D3-2408 AND 2409
- 115. PIZZA HUT OF SOUTHEAST KANSAS INC dba PIZZA HUT [WESTERN FIRE COMPANY, INC.], 06-R3D3-3652
- 116. PLASTICS INDUSTRIES, INC., 05-R3D1-889 THROUGH 891
- 117. QUALITY PLUS SERVICE, 07-R3D3-2713
- 118. RII PLASTERING, INC. dba QUALITY PLASTERING CO., 07-R3D1-496
- 119. RAM PLUMBING, 06-R3D3-3750
- 120. RELIABLE EQUIPMENT RENTAL, INC., 05-R3D5-1791 THROUGH 1792
- 121. RICKENBACKER INTERNATIONAL CORPORATION, 06-R3D1-3739 THROUGH 3741
- 122. NEWELL RUBBERMAID, 07-R3D3-3459 AND 3460
- 123. SBC, 06-R1D2-419
- 124. SF DEPT. OF PUBLIC HEALTH, 07-R1D1-1502
- 125. SAFEWAY, INC. STORE #1899, 07-R2D1-3019
- 126. SAN DIEGO GAS & ELECTRIC, 04-R3D2-3470 THROUGH 3473
- 127. SAN GABRIEL TRIBUNE, 05-R4D4-471 AND 472
- 128. SANITATION DISTRICT OF LOS ANGELES COUNTY, 07-R6D2-2860 THROUGH 2863
- 129. SCHNEIDER NATIONAL BULK CARRIERS, INC., 06-R3D5-1296 AND 1297
- 130. STEVE SCHOONOVER, 07-R2D3-2672 AND 2673
- 131. SCRIPPS POWAY FENCE CO., 06-R3D2-3902 AND 3903

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- 132. SELECT PERSONNEL SERVICES, 07-R4D1-919
- 133. SEVEN-UP BOTTLING COMPANY, 07-R2D1-1492
- 134. SHASTA CONSTRUCTORS INC., 05-R2D3-508 AND 509
- 135. SHELBURNE SERVICES, INC., 04-R3D2-4671
- 136. SHELL OIL PRODUCTS, 06-R2D7-1991 THROUGH 1993
- 137. SIERRA ALLOYS COMPANY, INC., 05-R6D2-57 THROUGH 63
- 138. SPEED-O-PIN INTERNATIONAL, 07-R6D2-1893 AND 1894
- 139. SPORT CHALET, 06-R4D2-3669
- 140. STA-RITE INDUSTRIES, LLC, 06-R3D5-2289 AND 2290
- 141. SUKUT CONSTRUCTION, INC., 06-R4D3-171
- 142. SUMMIT BUILDERS, 07-R2D1-1517 AND 1518
- 143. TWF CONSTRUCTION dba SELECT BUILD, 06-R3D3-4268
- 144. TWR ENTERPRISES, INC., 05-R3D3-901 AND 902
- 145. TANGLEWOOD CONSTRUCTION INC., 06-R1D4-223 THROUGH 225
- 146. THE VILLAGE AT CHILDHELP WEST, 06-R3D3-4267
- 147. UNITED STATES PIPE & FOUNDRY COMPANY, INC., 05-R1D4-4333
- 148. UNIVAR USA, INC., 07-R3D7-2626 AND 2627
- 149. UNIVERSAL CUSTOM DISPLAY, INC., 07-R2D1-1366
- 150. VAN MATRE LUMBER CO. INC., 05-R1D4-3844 THROUGH 3847
- 151. WASHINGTON IRON WORKS, 04-R4D1-2383 AND 2384
- 152. WEBB LOGGING, 07-R2D3-556
- 153. WESTERN FIRE COMPANY, INC., 06-R3D3-3651
- 154. WESTERN TRUCKING, 05-R3D2-2234 AND 2235

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155. WEST HILLS OIL CO., INC., 04-R2D5-4274

156. ZONDIROS CORPORATION, 07-R6D2-442 THROUGH 445

ORDER DENYING LEAVE TO FILE LATE APPEAL:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. FSM MASONRY INC., 07-R3D1-9355 (06-R3D1-4753)

ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. BCS CONSTRUCTION & DEVELOPMENT INC., 05-R4D3-4576
2. LANNY ROSS CONSTRUCTION, 04-R4D1-3760, 05-R4D1-2368
3. OTTO PALMER dba O.P. CONSTRUCTION CO., 04-R4D1-4734 AND 4735

ORDER GRANTING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. STANDARD PACIFIC HOMES, 04-R1D4-4353

ORDER REINSTATING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

1. EZRA CONSTRUCTION, 06-R1D4-9 THROUGH 12

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PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. CARTER PUMP & MACHINE, INC., 07-R4D3-9255
2. K.D. STEEL, 05-R1D4-2479 THROUGH 2482
3. LAKEVIEW BUILDERS, INC., 05-R4D3-1997 AND 1998
4. SOUTHLAND CONSTRUCTION, 05-R3D2-215 THROUGH 217
5. SPLASH & DASH CARWASH, 07-R2D1-9183

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. ABM INDUSTRIES, INC dba ABM JANITORIAL SERVICES, 07-R1D1-9135 THROUGH 9137
2. CEJA REYES, INC., 07-R2D3-9216

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. AC FRAMERS INC., 03-R2D3-3475
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AGC COMMUNICATIONS, INC., 03-R1D4-3121
4. AMERIPRIDE UNIFORM 04-R4D2-106 AND 107
5. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
6. BART, 03-R1D1-5170
7. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
8. BLF, INC., dba LARRUBURE FRAMING, 02-R4D1-4675 THROUGH 4680

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9. BLF, INC., dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
14. CALIFORNIA FRESH FARMS LLC., 06-R2D4-4127 AND 4224
15. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
16. COX COMMUNICATIONS, 03-R3D2-1942
17. DADE BEHRING, 05-R2D1-2203
18. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
19. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
20. DAVIS ROOFING, INC., 05-R3D3-4127
21. DURAMAR FLOOR, INC., 04-R6D2-3442 THROUGH 3448
22. DYNALECTRIC, 03-R1D1-4101
23. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
24. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
25. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
26. GLASS PAK, 03-R2D2-0750 AND 0751
27. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
28. HELPMATES STAFFING SERVICES, 05-R3D3-2239
29. HEMMINGSEN CONSTRUCTION CO., INC., 07-R2D3-9277
30. HUSSMAN CORPORATION, 03-R3D1-2939
31. ILH CONSTRUCTION, 02-R1D1-4172

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32. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
33. JOHN LAING HOMES, 04-R3D1-194 AND 195
34. KELLY SERVICES, INC., 06-R1D2-1024
35. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
36. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
37. LONG BEACH CITY COLLEGE, 03-R3D5-2747
38. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
39. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
40. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
41. O & M INDUSTRIES, 04-R1D5-1597
42. PMR RACE CARS, 03-R3D3-1825
43. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
44. RII PLASTERING INC., 02-R3D1-2679
45. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
46. STACY & WITBECK INC., 05-R1D1-1142
47. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
48. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
49. TEICHERT AGGREGATES, 04-R5D1-2982
50. TOAD IN THE HOLE TAVERN & GRILL, INC., dba BRITTANY'S CAFÉ, 05-R3D3-2533 AND 2534
51. TRIO METAL, 03-R4D4-0317
52. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
53. WESTERN DOOR, 01-R3D1-2827

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54. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)
3. UNITED ASSOCIATION LOCAL UNION 246, AFL-CIO; IDEPSCA INSTITUTO DE EDUCACION POPULAR DEL SUR DE CALIFORNIA AND CENTRO LEGAL DE LA RAZA, (HARRIS CONSTRUCTION COMPANY, INC.), 07CS00518 (02-3914)
4. INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, LOCAL LODGE 1781; JULIA SMITH, (UNITED AIRLINES dba UNITED AIRLINES SFO SYC), 07CS00331 (00- 2844)
5. WESTERN MILLING, LLC, 06 CE CG 04007 (06- 9039/9040)
6. IRBY CONSTRUCTION COMPANY, ECU03759 (03-2728)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.